

MPP./TITLE 22. DEPARTMENT OF SOCIAL SERVICES
NOTICE OF PROPOSED CHANGES IN REGULATIONS

ITEM # 1 Transitional Shelter Care Regulations

The California Department of Social Services (CDSS) hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at public hearings to be held on February 13, 2002, and February 14, 2002, as follows:

February 13, 2002
CDSS Office Building #9
744 P Street, Auditorium
Sacramento, California

February 14, 2002
Community Care Licensing Regional Office
100 Corporate Point, #350
(Entrance on Slausen)
Culver City, California

The public hearings will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The Department will adjourn the hearings immediately following the completion of testimony presentations. The above-referenced facilities are accessible to persons with disabilities. If you are in need of a language interpreter at the hearings (including sign language), please notify the Department at least two weeks prior to the hearings.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by telefax to the address/number listed below. All comments must be received by 5:00 p.m. on February 14, 2002.

CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice and the proposed regulations are available online at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearings, copies of the Final Statement of Reasons will be available from the office listed below.

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CHAPTERS

Community Care Licensing, Title 22, Division 6, Chapter 5 - Group Homes, Section 84001 (Definitions), Section 84022 (Plan of Operation), Section 84061 (Reporting Requirements), Section 84063 (Accountability), Section 84065 (Personnel Requirements), Section 84300 (General Provisions), 84300.1 (Emergency Intervention Prohibition), Section 84322 (Emergency Intervention Plan), Section 84322.1 (Protective Separation Room), Section 84322.2 (Runaway Plan), Section 84361 (Documentation and Reporting Requirements), Section 84365 (Emergency Intervention Staff Training), Section 84365.5 (Staffing Requirements), Section 84368.3 (Review of Manual Restraint Use), Section 84369 (Medical Examination), Section 84400 (General), Section 84401 (Definitions), Section 84410 (Limitations on Capacity and Ambulatory Status), Section 84422 (Plan of Operation), Section 84461 (Reporting Requirements), Section 84465 (Personnel Requirements), Section 84468.1 (Intake Procedures), Section 84468.2 (Needs and Services Plan), Section 84468.4 (Removal and/or Discharge Procedures), and Section 84478 (Responsibility for Providing Care and Supervision).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Youth Law Center filed a suit to compel the Department of Social Services (CDSS) to create regulations to implement Health and Safety Code Sections 1502.3 and 1502(a)(11), which created a children's short term residential care facility category designated as a transitional shelter care facility (Booraem v. Orangewood, et al., Orange County Superior Court No. 798871.) Prior to the final promulgation of the transitional shelter care regulations, the Youth Law Center filed another suit to compel the Department to license all county shelters (Warren v. Saenz). The court's amended order for the Department to license all county shelters was entered on April 17, 2001. These regulations respond to the court order and implement Assembly Bill 1334, Chapter 950, of the Statutes of 1994, which amended Section 1502 and added Section 1502.3 to the Health and Safety Code. Health and Safety Code Section 1502(a)(11) requires the CDSS to adopt regulations and develop standards that govern Transitional Shelter Care Facilities (TSCFs). The characteristics of a TSCF are:

- Must be licensed by the Department.
- Population served includes but is not limited to children who have been placed in the facility from another community care facility and are awaiting placement appropriate to their needs.
- Must have a service component outlined in the plan of operation that states that the facility will provide a program of transitional care services, within the first 90 days after admission.

- Must have a service component that addresses the special needs of transitional children from a prior living arrangement who are awaiting another placement.
- Is county owned and operated or run by a nonprofit organization under contract with the county as per Health and Safety Code Sections 1502.3(a) and 1502.3(e).
- Provides 24-hour nonmedical short-term care for children under 18, or up to age 19 if the child meets the requirements of Welfare and Institutions Code Section 11403, who are in need of personal services, supervision, assistance essential for daily living, and protection as per Health and Safety Code Section 1502.3(b).
- Provides short-term transitional shelter care services, provided within the first 90 days of admission to the facility, to children described in Health and Safety Code Section 1502.3(c), who have been removed from their homes based on neglect, abuse, and for children who are seriously emotionally disturbed who are wards or dependents of the court. Short term means the same as in Health and Safety Code Section 1502.3(b).

Currently, children in need of short-term care, removed from their homes or placement in community care facilities and awaiting subsequent placement in other community care facilities, are placed in licensed group homes or county operated emergency shelter care facilities. In 1985, the Director of the Department exempted from group home licensure emergency shelter care facilities operated by counties, pursuant to Health and Safety Code Section 1505(o). The lack of regulations addressing specific needs of these children in temporary care has led to overcrowding, improper placement of children and mixing of populations, which created a risk of harm to children in these facilities. The intent of creating Transitional Shelter Care Services is to strengthen the operation of public children's shelters for abused and neglected children. Since these children are emotionally disturbed, neglected or abused, they are not easy to place and have special needs. The intent of these regulations is to ensure that the county finds the best placement for the child and to prevent further unsuccessful placements, and to ensure the protection and safety of children in transitional care.

COST ESTIMATE

1. Costs or Savings to State Agencies: Undetermined. It is anticipated that State agencies will be able to absorb these additional costs within their existing budgets and resources.
2. Costs to Local Agencies or School Districts: There should be minimal, if any, additional costs because these facilities are already licensed as group homes and these regulations will offer greater flexibility than the regulations the shelters are currently following
3. Nondiscretionary Costs or Savings to Local Agencies: Minimal if any in the current State Fiscal Year which are not reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code because this regulation implements the court mandate set forth by the December, 1998 court in the case of Booraem vs. Oranewood et. al. and the December 2001 court case of Warren v. Saenz.
4. Federal Funding to State Agencies: Undetermined. There should be a minimal, if any, additional costs because these facilities are already licensed and these regulations will offer greater flexibility than the regulations the shelters are currently following.

LOCAL MANDATE STATEMENT

These regulations do not impose a mandate upon local agencies or school districts. There are no state-mandated local costs in these regulations which require state reimbursement under Section 17500, et seq. of the Government Code.

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SMALL BUSINESS IMPACT STATEMENT

CDSS has determined that there is an impact on small businesses.

ASSESSMENT OF JOB CREATION OR ELIMINATION

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

STATEMENT OF ALTERNATIVES CONSIDERED

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Health and Safety Code Sections 1501, 1502, 1502(a)(11), 1502.3, 1502.3(f), and 1530. Subject regulations implement and make specific Health and Safety Code Sections 1501, 1502, 1502(a)(11), 1502.3, 1511, 1523, 1524, 1528, 1531, 1556, 13108, 13143, 13143.6, and 13211; and Welfare and Institutions Code Sections 10554, 11403, 11465, and 16501.

CDSS REPRESENTATIVE REGARDING RULEMAKING PROCESS OF THE PROPOSED REGULATION

Contact Person: Anthony J. Velasquez (916) 657-2586
Backup: Jaimie Porter (916) 657-2586

CDSS REPRESENTATIVE REGARDING SUBSTANCE OF THE PROPOSED REGULATION

Program Contact: Seton Bunker (916) 324-4327
Backup: Connie Fanos (916) 324-4318

EMERGENCY STATEMENT

These regulations are to be adopted on an emergency basis. In order to allow interested persons an opportunity to submit statements or arguments concerning these regulations, they will be considered at public hearing in accordance with Government Code Section 11346.4.

AGENDA ITEM(S) FOR THIS PUBLIC HEARINGS - February 12, 2002 and February 13,
2002

ITEM #1 ORD #0901-21